

1 271(d)(2)(B) that the requesting BOC has fully
2 implemented the interconnection agreement elements set
3 out in the "checklist" under new section 271(c)(2).²

4
5 In so stating, Congress made clear its intent that Section
6 271(c)(1)(A) requires the existence of actual competition
7 based on fully implemented and operational interconnection
8 agreements to be a necessary precondition to the grant of
9 in-region long distance authority.

10
11 Intermedia's experience establishing interconnection
12 with BellSouth illustrates the need to require full
13 implementation of interconnection agreements as a necessary
14 precondition to granting BOCs in-region inter-LATA
15 authority. The interconnection agreement negotiated
16 between Intermedia and BellSouth and signed on June 21,
17 1996, was one of the first interconnection agreements to be
18 negotiated under Sections 251 and 252 of the 1996 Act. To
19 date, the Agreement has not been implemented, and Intermedia
20 is unable to predict when full implementation can be
21 expected. In this testimony, I have demonstrated specific
22 instances of excessive delay in the implementation of
23 portions of its Agreement with BellSouth.

24 The 1996 Act clearly established interconnection with
25 competitive carrier's networks as the guid pro quo for BOC
26 provision of in-region interLATA services. Granting BOCs

27 ² Telecommunications Act of 1996, House Report No. 104-204,
28 104th Cong., 2nd Sess. 149, reprinted in 1996 U.S. Code Cong.
29 & Admin. News, Pamphlet No. 1, Legislative History 160-61.

1 interLATA authority prior to full implementation of
2 interconnection agreements pursuant to Sections 251 and 252
3 would eliminate the BOCs' incentive to cooperate with their
4 competitors and would run afoul of the regulatory structure
5 established by the 1996 Act. For all these reasons, it is
6 necessary for BellSouth to actually be providing the
7 services detailed in its interconnection agreements before
8 it can be eligible for interLATA authorization.

9
10 The Commission should also record and consider various
11 other factors relevant to a public interest finding
12 regarding BOC entry into in-region interLATA services.
13 Public interest considerations include whether certain
14 actions by the BOC will promote new entry or whether such
15 actions are designed to, or have the effect of, impeding new
16 entry into the local market. The Commission should look at
17 whether there is a strong possibility that the BOC will use
18 its market power to impede competition in the market the BOC
19 seeks to enter.

20
21 The DOJ recommended a number of items for recordation
22 and consideration by the states in their public interest
23 determination. The nature of some of the issues listed
24 necessarily involves a public interest determination. For
25 instance, the items enumerated by the DOJ include the issue

1 of performance of incumbent LECs and potential competitors.³
2 Performance is an issue inextricably linked to the public
3 interest. Other issues listed are as follows: (1) number
4 and thoroughness of interconnection agreements; (2) strength
5 of competitors and ability to expand; (3) level of
6 competitive services proposed; (4) comprehensiveness and
7 applicability of agreement to other competitors; (5)
8 significance of unresolved issues submitted to arbitration;
9 (6) receptivity of BOC in general to negotiate agreement;
10 (7) speed with which BOC provides unbundled network
11 elements; (8) complaints, if any, on implementation of
12 agreements; and (9) whether access charge structure permits
13 IXC's to compete on equal footing with the BOC.

14
15 Regardless of the public interest factors the
16 Commission ultimately decides to adopt, the Commission must
17 remain cognizant of BellSouth's ability to game the
18 processes contemplated in the 1996 Act.

19
20 COMPLIANCE WITH THE CHECKLIST POST ENTRY

21
22 Q: DOES THE INTERCONNECTION AGREEMENT THAT BELL SOUTH HAS
23 ENTERED INTO WITH INTERMEDIA PROVIDE FOR PERFORMANCE
24 STANDARDS AND PENALTIES FOR FAILURE TO MEET SUCH STANDARDS
25 WITH RESPECT TO THE CHECKLIST?

26

27 ³ Communications Daily, Vol. 16, No. 14 (July 23, 1996),
28 reporting comments made in a speech by David Turetski, Deputy
29 Assistant, Attorney General, Antitrust Division, Department of
30 Justice.

1 A: The Agreement does not provide for performance standards or
2 penalties for failure to meet such standards. No other
3 means of assuring observance of the checklist once BellSouth
4 enters the interLATA market have been implemented.

5

6 Q: WHAT REGULATORY PROTECTIONS, IF ANY, SHOULD EXIST IN ORDER
7 TO ENSURE THAT BELL SOUTH CONTINUES TO COMPLY WITH ITS
8 OBLIGATIONS ONCE IT IS ALLOWED INTERLATA ENTRY?

9

10 A: As I stated earlier, the 1996 Act clearly established
11 interconnection with competitive carrier's networks as the
12 quid pro quo for BOC provision of in-region interLATA
13 services. Once the BOCs have been granted in-region
14 interLATA authority, there is no incentive to cooperate with
15 their competitors and no mechanism to compel adherence to
16 the Section 271 checklist. It is therefore critical that
17 the Commission establish an enforcement mechanism to ensure
18 continued compliance with checklist requirements.

19

20 Intermedia recognizes that the initial implementation
21 of interconnection pursuant to the 1996 Act necessarily will
22 require significant adjustments by both BellSouth and
23 competitive local exchange providers, including Intermedia,
24 as both parties establish the internal processes necessary
25 to implement the interconnection and interoperability of
26 their networks. While some confusion and delay necessarily
27 will accompany this process, it should dissipate quickly as
28 the parties gain experience. Nevertheless, because
29 interconnection requires that Intermedia and other CLECs

1 must depend on BellSouth, against whom they compete to
2 obtain essential services and facilities, the Commission
3 must recognize that it may be impossible for it to ascertain
4 whether delay in implementing or repairing service, service
5 interruptions, or declines in service quality result from
6 "honest" mistakes or reflect bad faith and anticompetitive
7 intentions. In order to address this issue, the Commission
8 should establish standards of performance to ensure that
9 BellSouth does not discriminate in the provision of
10 unbundled network facilities and services.
11

12 The Commission should establish an enforcement
13 mechanism to ensure BellSouth's compliance with the FCC
14 rules that incumbent local exchange carriers ("ILEC") must
15 provide competitive local exchange carriers ("CLEC") with
16 the same quality of service that they provide to non-
17 competitor customers and to their own affiliates or
18 partners. The Commission should also establish explicit
19 measures of service quality, including:

- 20 _ Standard deployment intervals for turning up new
- 21 circuits, both where facilities are immediately
- 22 available, and where new facilities must be
- 23 installed
- 24 _ Mean time to repair circuits
- 25 _ Trouble reports received per category of service
- 26 _ Diminution of service quality that do not
- 27 constitute interruptions of service

- 1 - Multiple trouble reports for the same circuit or
- 2 service
- 3 - Percentage of times Firm Order Commitment dates
- 4 are met and missed⁴
- 5 - Intervals for circuit "rollovers"⁵
- 6 - Mean time to implement presubscribed interexchange
- 7 carrier ("PIC") changes
- 8 - Mean post dial delay

9

10 In order to enforce the nondiscrimination provisions of

11 the 1996 Act, and the FCC's Order, BellSouth should be

12 required to report the data listed above in regular reports,

13 submitted quarterly to the Commission, and made available to

14 the public. Data for each category listed above should be

15 subdivided into categories for service provided to CLECs,

16 non-competitor customers, and ILEC affiliates or partners.

17 Such reporting requirements would obviate speculation

18 ⁴ Firm Order Commitments ("FOCs") are simply a commitment by a

19 carrier to turn up service on a date certain. While this

20 should be a standard business practice, several ILECs have

21 refused to provide FOCs for collocation and interconnection

22 arrangements. The Commission should require that BellSouth

23 provide CLECs with FOCs for all requested collocation

24 arrangements, cross-connects to ILEC services, and

25 interconnection arrangements within three weeks of receiving

26 a request for service.

27

28

29 ⁵ "Rollovers" refer to the process of terminating an existing

30 BellSouth circuit and replacing it with another. For example,

31 if a customer upgrades a special access service from a voice

32 grade line to a DS1 circuit, it asks BellSouth to terminate

33 the voice grade service and install a DS1 service at the same

34 location. Similarly, if a customer wishes to terminate an

35 existing service that it receives from BellSouth and convert

36 it to a service provided by ICI, it asks BellSouth to roll the

37 service over from the ILEC to the CLEC.

1 whether delays or outages in ILEC-provided service reflect
2 honest errors or discrimination against competitors, and
3 would substantially reduce the need for litigation or
4 inquiries by the Commission or state regulators. In
5 essence, by making this service quality data available to
6 the public, the Commission will establish a largely self-
7 enforcing deterrent to discrimination that implements the
8 mandate of the 1996 Act, while minimizing the need for
9 active supervision by the Commission or the FCC.

10
11 Similarly, the Commission should establish rules to
12 ensure that BellSouth will respond reasonably to requests
13 for further network unbundling on an ongoing basis. The
14 Commission should adopt measures that will create a positive
15 incentive for timely adherence to BellSouth's
16 interconnection obligations on a going-forward basis. These
17 could include the imposition of fines for unreasonable
18 delay, or a provision for liquidated damages if BellSouth
19 fails to meet pre-established deadlines for provisioning
20 unbundled loops or other network elements, or cross-
21 connected circuits to collocated carriers. Such liquidated
22 damages provisions have been voluntarily adopted by NYNEX
23 and Ameritech in their interconnection agreements, and these
24 could provide a template for a similar provision for
25 BellSouth.

26
27 In addition, ILECs should be required to provide public
28 notice (through publication in a tariff or by other public

1 announcement) of new unbundled network elements as they are
2 made available. Finally, the Commission should make sure
3 that BellSouth supplies it with complete documentation
4 supporting any decision not to unbundle a requested network
5 element.

6
7 Q: PLEASE SUMMARIZE YOUR TESTIMONY.

8
9 A: BellSouth has come to this Commission seeking a
10 determination that it has complied with the 1996 Act's 14-
11 point competitive checklist, and that its entry into the in-
12 region interLATA market is in the public interest.
13 Intermedia's experience with BellSouth persuasively
14 demonstrates that BellSouth has been impeding the advent of
15 local exchange competition in Georgia. In particular,
16 despite the presence of a fully negotiated interconnection
17 agreement between Intermedia and BellSouth, BellSouth has
18 been grossly remiss in implementing the Agreement, the
19 result of which is to delay Intermedia's entry into the
20 facilities-based local exchange market. More specifically,
21 BellSouth has been engaging in massive disinformation and
22 dilatory tactics to the detriment of Intermedia.

23 BellSouth claims that its account managers and account
24 teams are advocates for competitive carriers. TR at 738.
25 Yet, Intermedia's experience belies that assertion. Rather
26 than being "advocates" for competitive carriers, BellSouth's
27 account teams either withhold information or provide

1 erroneous information which further delay the implementation
2 of Intermedia's Agreement. Moreover, it is apparent that
3 there is simply no process within BellSouth for monitoring
4 compliance with interconnection agreements. A colloquy
5 between Intermedia's counsel and BellSouth witness Varner in
6 this regard is instructive:

7 Q: Are you aware of any informal expressions of
8 concern to BellSouth by competitive carriers
9 that interconnection is not proceeding at the
10 pace agreed on in their interconnection
11 agreements?

12 A: I'm--no, I'm not.

13 Q: Okay. So you're--

14 A: Mr. Scheye is probably better able to answer
15 those kinds of questions.

16 Q: Okay. So you're not aware of correspondence
17 from Intermedia going back several months
18 complaining about the pace and the--of
19 implementation and the responsiveness of
20 BellSouth in its request?

21 A: No, I'm not.

1 TR at 255. Intermedia's negative experience with BellSouth
2 is not an isolated incident. During the hearing, the
3 Commission was introduced to assertions by other competitive
4 carriers demonstrating that BellSouth has not been complying
5 with the requirements of the 1996 Act and its
6 interconnection agreements. For example, ACSI claims that
7 it has been having problems with the provision of unbundled
8 loops and number portability. TR at 440. Similarly,
9 according to Sprint's counsel, Sprint Metro has had
10 substantial cut-over problems involving the provision of
11 unbundled loops. TR at 817.

12 Regardless of BellSouth's justifications for its
13 grossly deficient performance under both the 1996 Act and
14 its interconnection agreements, the result is clear: the
15 advent of local competition in Georgia is being impeded. In
16 light of this, the Commission should find that BellSouth has
17 not met the competitive checklist and its entry into the in-
18 region interLATA market is not in the public interest at
19 this time.

20 Q: DO YOU HAVE ANYTHING FURTHER?

21 A: No, I do not.

22 Q: DOES THIS CONCLUDE YOUR TESTIMONY?

1 A: Yes, it does. I reserve the right, however, to change,
2 amend, or otherwise supplement my direct testimony, as
3 appropriate.

4 END OF TESTIMONY

5

6

Exh. B-6

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January 8, 1997

Whit W. Jordan
Executive Director, Federal Regulatory
BellSouth Corporation
1133 - 21st Street, N.W.
Suite 900
Washington, D.C. 20036

VIA FACSIMILE
ORIGINAL FOLLOWS BY
US. MAIL

Re: Intermedia request for escalation of discussions to resolve interconnection implementation issues

Dear Whit:

This letter follows our conference call of January 6, in which we were joined by Tom Allen and Julia Strow to discuss a range of issues related to the implementation of the interconnection agreement negotiated between ICI and BellSouth. In raising these issues, we very much appreciate your and Bob Blau's willingness to act as expeditors in resolving the concerns raised by ICI. Our conference focused on the following issues:

1. Confirm BellSouth's position on the mechanism for billing for unbundled rate elements and resold services. Our BellSouth account representatives have informed us that unbundled elements and resold services will ultimately be billed through the CRIS system. It is our position that billing through CABS will be more efficient, less costly, and can be implemented more quickly. In particular, because CABS is a carrier-based system it can generate the data that we need to prepare bills and verify calls. Being an end-user focused system, CRIS does not provide us with these features. Can BellSouth accommodate a request to bill its unbundled elements – in particular Frame Relay loops – through CABS?
2. As we discussed, ICI had been informed that it must pay a \$25 per-loop node charge for its unbundled 56 kbps loops. Shortly before our conference call, ICI heard from Fred Monticelli that this statement was made in error, and that the node charge did not apply. We ask that BellSouth confirm this latter statement.
3. In a letter dated July 11, ICI requested, among other things, subloop unbundling arrangements. BellSouth responded with a two-paragraph statement that such an arrangement was technically infeasible and could not be accomplished by BellSouth's LFACS and TIRKS network management systems. A copy of ICI's request and BellSouth's response are attached for your review. During our conference call, we requested that BellSouth provide a more detailed response to our request. In particular, we requested that BellSouth discuss the relative distribution of Integrated Digital Loop Carriers and Universal Digital Loop

REED SMITH SHAW & McCLAY

Mr. Whit W. Jordan
January 8, 1997
Page 2


Carriers throughout its network, and discuss whether subloop unbundling could be made more readily available in cases where UDLCs or next generation loop carriers were deployed. Finally, BellSouth's letter responding to ICI's request suggests that manual records could be used to record the trunk assignments necessitated by subloop unbundling. We would like to explore the possibility of using such records to implement the unbundling sought by ICI – at least on an interim basis – until more permanent arrangements can be established.

4. To date, ICI has been unable to obtain call record detail from BellSouth in electronic format. While BellSouth has provided ICI with copies of paper bills, it is not economical for ICI to use the information in this format to generate its own bills. We need to establish a process for providing ICI with electronic call record detail, either on floppy disks or via e-mail.
5. As a result of recent discussions with BellSouth personnel, two issues have arisen regarding the application of nonrecurring charges in the context of interconnection:
 - A. We seek clarification that, when ICI resells BellSouth service, the applicable wholesale discounts apply to all of the service elements that are listed in the retail tariff – including nonrecurring charges.
 - B. We wish to confirm that, when a customer that currently takes service from BellSouth pursuant to a long term contract switches to BellSouth service resold by ICI, ICI assumes the customer's obligation for the remainder of the contract term, and no termination liability charges would apply as a result.

At the conclusion of our conference call, we requested that you present these issues to the appropriate decisionmakers within BellSouth, and that we hold another conference call early next week to discuss the progress on these issues. As you know, several of these issues have been pending for almost half a year, and we are anxious to achieve a final resolution expeditiously. To this end, we are grateful to you for agreeing to act as an expeditor, and look forward to working with you to achieve the prompt implementation of our interconnection agreement.

Again, thank you for your help in this matter.

Sincerely,



Jonathan E. Canis

FILED
To Jerry
Hendrix
also

July 11, 1996

To: Rich Dender

From: Tom Allen

Subject: Intermedia Unbundling Request

Pursuant to Section 251 of the Telecommunications Act and to the recently executed interconnection agreement, Intermedia requests that BellSouth provide the following unbundled elements:

- 1) An unbundled frame relay loop;
- 2) An unbundled ISDN loop;
- 3) Line side loop unbundling that supports a multi-host environment, i.e., modification of the TR303 industry standard to extend that standard to the local loop environment. This unbundling was discussed in Intermedia's comments filed with the FCC in Docket No.96-98 on May 15th.

We are requesting an evaluation of technical feasibility as well as price quotes consistent with the requirements of the Act for the loops requested. Please advise me or Julia Strow if additional information is needed to facilitate evaluation of these requests. Also, please let me know when Intermedia can expect a response to this request. I can be reached at 770-429-5709 and Julia can be reached on 770-429-5702. Thanks for your help in initiating this request.

Sywenki

BEFORE
THE PUBLIC UTILITIES COMMISSION OF PENNSYLVANIA

In the Matter of the Investigation into)
Bell Atlantic - Pennsylvania's Entry Into)
In-Region InterLATA Service Under) Docket No. M-960840
Section 271)

STATEMENT OF
PETER N. SYWENKI
ON BEHALF OF
SPRINT COMMUNICATIONS COMPANY L.P.

MARCH 10, 1997

QUALIFICATIONS

1 Q. Please state your name, employer, address and position.

2 A. My name is Peter N. Sywenki. I am employed by Sprint Communications Company L.P. ("Sprint")
3 as Manager, Regulatory Policy and Coordination. My business address is 7301 College Blvd.,
4 Overland Park, Kansas 66210.

5

6 Q. Please describe your educational background and work experience.

7 A. I have a Bachelor of Science degree in Business Administration with
8 concentrations in Finance and Marketing from Elizabethtown College. I have been employed by
9 Sprint since June 1987. While with Sprint I have held various positions at Sprint's United
10 Telephone Company of Pennsylvania, on Sprint's Local Division corporate staff, and currently in
11 Sprint's External Affairs Department. In these positions my duties have focused on regulatory,
12 financial and economic aspects. I have been responsible for administering FCC Part 36 and 69
13 separations and access charge rules; developing rates and tariffs; preparing revenue forecasts for
14 budgeting; monitoring and filing earnings reports; performing analyses on the economic cost of
15 providing telecommunications services; providing economic and analytical support for Sprint policy
16 positions in State and Federal regulatory proceedings; and developing Sprint regulatory and
17 economic policy positions and presenting these positions internally, in industry forums, and to FCC
18 staff.

19

20 My present responsibilities include, development of Sprint regulatory policies, performing economic
21 analyses, coordinating regulatory matters among Sprint's local and long distance divisions, and
22 testifying on behalf of Sprint concerning economic and regulatory telecommunications matters. I
23 have testified before the Wyoming, Nebraska, New Jersey, Maryland, and Virginia state
24 commissions.

25

1 SUMMARY OF TESTIMONY

2 Q. What is the purpose of your testimony?

3 A. The purpose of my testimony is to discuss the status of Bell Atlantic - Pennsylvania's compliance
4 with the Act's Section 271 requirements, to discuss the implications of granting 271 authority
5 prematurely, and to provide an economic framework for evaluating the public interest standard in
6 granting 271 authority.

7

8 Q. What are your major conclusions?

9 A. I have two major conclusions. First, as can be readily seen by Bell Atlantic's own declarations,
10 much of the checklist is far from being implemented so verification of Bell Atlantic's compliance is
11 not possible. Until the checklist requirements move from their present state of paper promises to
12 working in practice, the Commission cannot meaningfully verify BA-PA's compliance. Second,
13 granting 271 authority prematurely would remove the only incentive that Bell Atlantic has to
14 cooperate in opening its market to local competition. Because new entrants are so reliant on Bell
15 Atlantic to gain even a foothold in the local market and because Bell Atlantic has a natural economic
16 incentive to protect it's monopoly position, taking away Bell Atlantic's incentive to cooperate would
17 stifle progress toward opening competition in the local market.

18

19 Q. Provide some examples of checklist requirements where verification of checklist compliance cannot
20 be determined.

21 A. The Bell Atlantic declarations are replete with promises to fulfill checklist requirements. For
22 example, Bell Atlantic states that "BA-PA Will Fully Implement the Competitive Checklist"¹
23 However, until these requirements are actually met through functioning interconnection

¹ Supplemental Report of Bell Atlantic - Pennsylvania, Inc., pg 6.

1 agreements, there is no way of telling that the claims will actually meet the compliance standards.

2 Below are some examples of BA-PA future commitments:

- 3 • BA-PA *will report* quarterly to carriers on BA-PA's performance in installing and maintaining
4 interconnection arrangements, unbundled elements, and resold services for that carrier, for
5 itself, and for certain other carriers in the aggregate.² This type of report would be very useful
6 information for evaluating BA-PA's compliance with the non-discriminatory standards of the
7 Act. Unfortunately, there is apparently not enough experience to populate the report with
8 actual data and therefore no way of measuring or observing Bell Atlantic's compliance.
- 9 • BA-PA *is prepared to allow* a competing carrier to combine or recombine unbundled network
10 elements and has offered to develop a joint test with an interested carrier.³ Again, it is
11 difficult, if not impossible, to determine Bell Atlantic's compliance with this Act requirement
12 unless there is actual experience.
- 13 • BA-PA *will offer* local switching, unbundled from transport, local loop transmission and other
14 services by the time it seeks interLATA authority.⁴
- 15 • BA-PA *will offer* an electronic interface, through which carriers will input and provide a daily
16 update of 911/E911 database information relating to the carrier's customers. Until such time as
17 the electronic interface is available, carriers will provide the appropriate 911 information in
18 writing for BA-PA's entry into the 911 database system.⁵ Clearly, by these statements,
19 competing carriers do not at this point have non-discriminatory 911/E911 database access where
20 they must submit information in writing and there is no way of observing BA-PA's compliance
21 until the electronic interfaces are actually functioning.

² Declaration of Donald E. Albert, pg. 4

³ Id. Pg. 5

⁴ Id. Pg. 9

⁵ Id. Pg. 12-13

- 1 • BA-PA *will provide* customized routing of calls from competing carrier's customers who are
2 served by BA-PA switches.⁶
- 3 • BA-PA *will offer* competing carriers the ability to create, develop, and deploy AIN-based
4 services of the carrier's own design or to use BA-PA-owned AIN-based applications.⁷
- 5 • BA-PA *will implement* presubscription for intraLATA toll calls.⁸
- 6 • BA-PA *will provide* to the carrier the usage information and other billing information for the
7 retail service that BA-PA would record if BA-PA was furnishing such retail service to a BA-PA
8 end-user retail customer.⁹
- 9 • BA-PA *will provide* the carrier with access to BA-PA's Operational Support Systems (OSS)
10 functionality for pre-ordering, ordering, provisioning, maintenance and repair, and billing.¹⁰

11
12 The examples and other promises like these are made in practically all of the checklist items. What this
13 means is that BA-PA has yet to prove to any extent much of what is required by the checklist, which means
14 there is no way to verify that Bell Atlantic is actually complying with the checklist and the standards set out
15 in the Act.

16
17 In addition, there are several examples of checklist requirements, where Bell Atlantic declares to be
18 providing items, but for which no actual data or information is given to support these claims or to verify
19 that they are being provided in a manner consistent with the Act. Moreover, many of the declarations
20 demonstrate on their face that the provisions are not compliant. Below are some examples:

- 21 • BA-PA provides local loop transmission.¹¹ Unfortunately, this statement alone does not provide
22 any useful data or information to enable meaningful verification or to allow any evaluation as to

⁶ Id. Pg 14

⁷ Id. Pg. 17

⁸ Id. Pg. 19

⁹ Id. Pg. 21

¹⁰ Id. Pg. 22

¹¹ Id. Pg. 6

1 the extent to which competitors are providing services to business and residential customers
2 exclusively or predominantly over their own facilities as required by the Act.

- 3 • BA-PA provides access to intraLATA operator call completion services for competing carrier's
4 customers.¹² How many calls has BA-PA handled for new entrants? Are operator calls from
5 CLEC customers handled the same as BA-PA customers? What assurances does BA-PA
6 provide that competing carriers' customers will receive service that is equal in quality to that
7 which BA-PA provides to its own customers?
- 8 • BA-PA provides white page directory listings for customers of competing carriers' telephone
9 exchange service.¹³ How many listings has BA-PA taken? How many are residential listings?
10 How many are business listings? Have the directories where these listings are to appear been
11 published or delivered?
- 12 • BA-PA includes in the "Customer Guide" pages of the white pages directories listing of
13 competing carriers' installation, repair, and customer service and other essential service-
14 oriented information, with appropriate identifying logos.¹⁴ How many pages does a CLEC get?
15 Does BA-PA or the new entrant get to decide what an "appropriate identifying logo" is?
16 Similarly, does BA-PA or the new entrant get to decide what "essential" service-oriented
17 information is?
- 18 • BA-PA will continue to provide nondiscriminatory access to telephone numbers in this manner
19 (where BA-PA assigns NXX codes) until number administration is provided by a third party.¹⁵
20 Can this really be called nondiscriminatory access?
- 21 • BA-PA provides competing carriers with access to the BA-PA advanced intelligent network
22 (AIN) to deploy AIN-based services of the carriers' own design or to use BA-PA owned AIN-

¹² Id. Pg. 13

¹³ Id. Pg. 14

¹⁴ Id. Pg. 15

¹⁵ Id. Pg. 15

1 based applications.¹⁶ How many competing carriers have accessed BA-PA's AIN? How many
2 times have competing carriers deployed AIN-based services of their own design? How many
3 have used BA-PA's owned applications? Are there any restrictions on how a new entrant can
4 use BA-PA's AIN? What would happen if How many competing carriers be able to access BA-
5 PA's AIN simultaneously?

- 6 • BA-PA provides competing carriers with nondiscriminatory access to the services and
7 information that are necessary to allow competing carriers to implement dialing parity for
8 telephone exchange service, operator services, directory assistance, and directory listing
9 information with no unreasonable dialing delays.¹⁷ Has BA-PA measured the amount of dialing
10 delay? If so, what was the result? Is there any supporting data or information? Who gets to
11 determine that the current level of dialing delay is reasonable?

12
13 In order to meaningfully verify compliance, a more comprehensive showing needs to be made than
14 mere statements that, in essence, mirror the language of the Act.

15
16 Q. Why is it important that the competitive checklist requirements be working in practice and that
17 compliance be observed rather than based on future commitments?

18 A. Checklist compliance, if it truly is to mean that local competition has been enabled, must require
19 more than an agreement that exists only on paper. Economically meaningful checklist compliance
20 requires that interconnection be shown to be working in practice. Interconnection is complex and the
21 pro-competitive nondiscriminatory standards are necessarily rigorous. Until such time as the checklist
22 items are actually put to the test, there can be no way of knowing whether the promises or terms of an
23 agreement actually work the way they are intended. For example, Bell Atlantic intends to provide non-
24 discriminatory access to 911/E911 databases via an electronic interface. Until the interface is actually

¹⁶ Id. Pg. 17

¹⁷ Id. Pg. 19

1 operating in a commercial setting, it is impossible to determine whether the interface does what it is
2 supposed to do or whether the interface truly provides access that is nondiscriminatory.

3
4 Compliance can be thought about in stages. The first stage is form. Interconnection agreements and
5 commitments may provide the form for compliance. The second stage is performance. In this stage,
6 Bell Atlantic's application of the terms and conditions of interconnection agreements and commitments
7 can begin to be observed. Performance problems in the execution of any of the terms will be brought to
8 light by a party to the agreement, but only to the extent that the party is attempting to apply one of
9 the terms of the agreement. Until a particular term is actually invoked, there can be no demonstration
10 that the term is being executed in a manner that satisfies the Act's requirements. The final and most
11 important stage is result. In this stage, entry by a number of different providers using a variety of entry
12 strategies (facilities-based, unbundled network elements, and resale), invoking all the terms of
13 interconnection, and are effectively providing service and competitive options to all types of end users.
14 At this stage, the effectiveness of interconnection can begin to be measured and observed and there can
15 be greater confidence that the intricacies of interconnection are ironed out and that conditions are truly
16 conducive to entry and that the development and expansion of local competition is imminent.

17
18 Q. Has entry been enabled if Bell Atlantic offers to provide interconnection on reasonable terms to
19 new entrants?

20 A. No, not until the offered terms have been proven to work in practice, and we are sure that other
21 entrants can replicate these proven arrangements.

22 Due to the complexity and importance of interconnecting in various ways with the ILEC, a new
23 entrant cannot be confident that entry truly has been enabled until interconnection has been shown
24 to work on a commercial scale. In demonstrating that interconnection in its myriad details really
25 works, an interconnection agreement with a new entrant covering a large geographic area is more
26 convincing and more meaningful than an agreement with a highly localized new entrant. Likewise,

1 to give a specific example of one dimension of "interconnection," an interconnection agreement
2 specifying terms for customer billing is more meaningful, in terms of assessing the height of entry
3 barriers, the greater the volume and variety of customer billing taking place under the agreement.

4
5 Whatever the scale, a working agreement that has been put into practice, i.e., pursuant to which a
6 new entrant is actually providing service, is far more meaningful than a paper agreement that has
7 yet to be tested commercially.

8
9 Q. Are you saying that we must see full competition in local exchange markets before we can conclude
10 that Bell Atlantic has in fact fully implemented the checklist?

11 A. No, I understand that this is not the applicable legal standard. But we must see some actual
12 competitors with their own facilities, we must be confident additional entry is imminent, and we
13 must be confident that the ILEC cannot prevent these entrants from competing effectively. This
14 confidence cannot be attained on the basis of the prospect of competition as contained in agreements
15 and promises on paper. Commercial entry from a number of entrants employing a variety of entry
16 strategies will increase the confidence that the checklist requirements from resale to unbundled
17 elements to reciprocal compensation are being fulfilled and working effectively. Very likely, the first
18 interconnection agreements to be operationalized on a significant scale in Pennsylvania will involve
19 the resale of Bell Atlantic's retail services. Sprint is planning to begin as a new entrant in
20 Pennsylvania through resale. Thus, the first significant indication that interconnection is working
21 in practice in Pennsylvania will occur when resellers are able to achieve operational parity with Bell
22 Atlantic.

23
24 Of course, resale competition is not as powerful a force for consumer choice as is facilities-based
25 competition, and Congress put some specific requirements in the Act stressing the key role of
26 facilities-based competitors in local exchange markets. When resale is proven to work in practice,

1 and if new entrants have confidence that the regulatory environment will be conducive to
2 competition, they will be willing to make the substantial sunk investments necessary to provide real,
3 facilities-based local competition and to begin to invoke other terms of the interconnection
4 agreement. Even after such investments are made, however, it will remain important for the
5 Commission to continue to press Bell Atlantic to cooperate with new entrants who are investing in
6 fiber optic networks, switches, etc., to insure that these investments are not stranded or degraded,
7 but rather form the basis for genuine new choices for consumers.

8
9 Q. Why is it important to ensure that interconnection is working in practice *prior* to granting 271
10 authority?

11 A. There is widespread agreement that the public interest will be served if states and the Federal
12 Communications Commission (FCC) take advantage of the historic opportunity provided by the
13 1996 Telecommunications Act to ensure that local telephone markets are opened up to competition.
14 Since these markets are currently monopolized, economics tells us introducing competition into
15 them offers potentially large social gains. To open these markets will require ongoing, extensive,
16 and detailed cooperation from incumbent local exchange carriers (ILECs). No monopolist lightly
17 relinquishes its dominant position. Recognizing this, Congress provided a powerful incentive for
18 Bell Operating Company (BOC) cooperation by providing conditions necessary for BOCs to enter
19 interLATA markets.

20
21 It would be a mistake to relinquish the 271 lever until local markets are demonstrably open. If 271
22 authorization is granted before we are confident that the required BOC cooperation has indeed been
23 forthcoming and will continue, the strong incentives for BOC cooperation created by the 271
24 process will be lost, and the emergence of local competition will be undermined. This situation
25 would be difficult to rectify, since 271 approval would be virtually impossible to reverse. On the
26 other hand, if 271 approval is deferred until interconnection has been proven to work, such